

Alan M. Fisch (*pro hac vice*)
alan.fisch@fischllp.com
R. William Sigler (*pro hac vice*)
bill.sigler@fischllp.com
FISCH SIGLER LLP
5301 Wisconsin Avenue NW
Suite 400
Washington, DC 20015
Tel: 202.362.3500
Fax: 202.362.3501

Michael K. Kelly (*pro hac vice*)
mkelly@beusgilbert.com
Christine N. Jones (*pro hac vice*)
cjones@beusgilbert.com
BEUS GILBERT PLLC
701 North 44th Street
Phoenix, AZ 85008-6504
Tel: 480.429.3000
Fax: 480.429.3001

Ken K. Fung (SBN: 283854)
ken.fung@fischllp.com
FISCH SIGLER LLP
400 Concar Drive
San Mateo, CA 94402
Tel: 650.362.8207
Fax: 202.362.3501

Allan Steyer (SBN: 100318)
asteyer@steyerlaw.com
Suneel Jain (SBN: 314558)
sjain@steyerlaw.com
STEYER LOWENTHAL BOODROOKAS
ALVAREZ & SMITH LLP
235 Pine Street, 15th Floor
San Francisco, CA 94104
Tel: 415.421.3400
Fax: 415.421.2234

Attorneys for Plaintiffs
Juniper Networks, Inc.
and Apstra, Inc.

Counsel for Defendant
Swarm Technology LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

JUNIPER NETWORKS, INC. and
APSTRA, INC.,

Plaintiffs,

v.

SWARM TECHNOLOGY LLC,

Defendant.

Case No. 3:20-cv-3137-JD

JOINT STATUS REPORT

Location: Courtroom 11, 19th Floor

Judge: Hon. James Donato

Pursuant to the Court’s October 3, 2022 Order (Dkt. No. 102), Plaintiffs Juniper Networks, Inc. (“Juniper” or “Petitioner”) and Apstra, Inc. (“Apstra”) (collectively, “Plaintiffs”), and Defendant Swarm Technology LLC (“Swarm” or “Defendant”), submit this joint status report.

FACTUAL AND PROCEDURAL BACKGROUND

Swarm filed its Motion for Leave to File Amended Counterclaims for Patent Infringement of U.S. Patent No. 9,852,004 (the ’004 Patent) and U.S. Patent No. 10,592,275 (the ’275 Patent) on September 6, 2022, along with the amended counterclaims for infringement of U.S. Patent No. 9,146,777 (the ’777 Patent).¹ Prior to the Plaintiffs’ responsive pleading, the parties stipulated to stay the instant action pending the outcome of the *Inter Partes* Review proceedings for the ’004 and ’275 Patents. The Court entered an Order Granting Stay on October 3, 2022, directing the parties to “file a status report on the IPRs at 90-day intervals, and to promptly advise the Court when the PTAB issues a decision.”²

A. *INTER PARTES* REVIEW NO. IPR2021-01317

Juniper filed *Inter Partes* Review No. IPR2021-01317 (the “’777 IPR”) on July 26, 2021, seeking a determination that the claims in the ’777 Patent are invalid as being obvious under 35 U.S.C. § 103.³ On February 1, 2022, the Patent Trial and Appeals Board (“PTAB”) entered its decision denying institution of the ’777 IPR.⁴⁵

¹ Dkt. No. 98, *et. seq.*

² Dkt. No. 102.

³ Dkt. No. 49, *et. seq.*

⁴ Dkt. No. 74.

⁵ Juniper filed a Request for Rehearing of the PTAB Decision Denying Institution of the ’777 IPR on March 3, 2022. That Request was denied on March 17, 2022. *See* Dkt. No. 87.

B. INTER PARTES REVIEW NO. IPR2021-01445

Juniper filed *Inter Partes* Review No. IPR2021-01445 (the “’004 IPR”) on August, 26, 2021, seeking a determination that the claims in the ’004 Patent are invalid as being obvious under 35 U.S.C. § 103.⁶ On March 2, 2022, the PTAB rendered its decision to institute the ’004 IPR.⁷ Swarm has moved to amend certain claims of the patent in the ’004 IPR.

Oral Argument in the ’004 IPR is set for January 4, 2023, with a final decision expected from the PTAB no later than March 2, 2023.

C. INTER PARTES REVIEW NO. IPR2022-00141

Juniper filed *Inter Partes* Review No. IPR2022-00141 (the “’275 IPR”) on November 4, 2021, seeking a determination that the claims in the ’275 Patent are invalid as being obvious under 35 U.S.C. § 103.⁸ On May 16, 2022, the PTAB rendered its decision to institute the ’275 IPR.⁹ Swarm has moved to amend certain claims of the patent in the ’275 IPR.

Oral Argument in the ’275 IPR is currently set for February 15, 2023, with a final decision expected from the PTAB no later than May 16, 2023.

STATUS OF ISSUES THAT REQUIRE JUDICIAL ACTION

The parties have not identified matters that require judicial attention at this time. As described in the Parties’ Joint Stipulation to Stay,¹⁰ the Parties will file a joint status report at 90-day intervals, and within fourteen (14) days following a final written decision entered in either the ’004 IPR or the ’275 IPR.

⁶ Dkt. No. 51, 52, *et. seq.*, 53 (corrected version of Dkt. No. 52), *et. seq.*

⁷ Dkt. No. 78, *et. seq.*

⁸ Dkt. No. 55, 56, *et. seq.*

⁹ Dkt. No. 90.

¹⁰ Dkt. No. 101.

1 Dated: January 3, 2023

Respectfully submitted,

2 By /s/ Ken K. Fung

3 **FISCH SIGLER LLP**

4 Ken. K. Fung

5 *Attorneys for Plaintiffs*

6 *Juniper Networks, Inc. and Apstra, Inc.*

7 By /s/ Michael K. Kelly

8 **BEUS GILBERT McGRODER PLLC**

9 Michael K. Kelly

10 Christine N. Jones

11 **STEYER LOWENTHAL BOODROOKAS**

12 **ALVAREZ & SMITH LLP**

13 Allan Steyer

14 Suneel Jain

15 *Attorneys for Defendant Swarm Technology LLC*

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18 Filer's Attestation: I attest that counsel for the parties have concurred in this filing.

19 /s/ Ken K. Fung

20 Ken K. Fung

CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2023, I caused the foregoing document to be served via the Court's CM/ECF system on all counsel of record per Local Rule CV-5(5).

/s/ Ken K. Fung
Ken. K. Fung